1941.

File No. B Tenancy /41

Legal DEPARTMENT

B BRANCH

K

Subject:—

Governor's Bill No VIII of 1941

A Bill to amend the Bombay Tenancy Act, 1939

(amend of- s.s. 1, 4, 5; 19, 23 and 29)

p29

File No. B Tenancy /41

Std. Sectt. Slip 24 B a.

505 B Bom VII of- 1941

CONTENTS

Legal Department File No. Bombay Tenancy Act/ 41.

Sr. No.	Compilation No.	Subject	Pages.
1	U.R. to R.D. No.11037 dt. 16. 12.40	Bombay Tenancy Act 1941 amendment Amendment of	1- 2.
2	U.R. to Adv. General dt.20. 12.40	Amendment of	
	Adv. Generals note dt. 7. 1.41		
	U.R. to H.D. no 165 dt. 8. 1.41		3- 11
3	- ---	Governer's Bill no VIII of 1941 amending the Act.	13- 13B
4	G.R.L.D. no.2874 dt.29. 3.41	Publication of Amdt .Act.	15
5	U.R.to R.D.No.2876 dt.29. 3. 41.	Draft Notification under section 92(1) Government of India Act, 1935., directing application of the Amendment Act to the partially excluded areas in the Bombay Provinces.	17- 19.

Two draft Bills, one amending the Bombay Tenancy Act,1939 , and the other amending the Bombay Small Holders Relief Act, 1938 are appended.

2. Clause 2 of the first draft Bill provides for an amendment of section 1 of the Bombay Tenancy Act, 1939 empowering Government to extend any or all the provisions of the Act and to bring them into force in such areas as it thinks fit. Clause 3 of the Bill provides for an amendment of section 29 providing that on the date on which the provisions of sections 2 to 13 of the Act come into force in any areas section 9 of the Bombay Small Holders Relief Act will be repealed in such area.

3. The second draft Bill provides for the extension of the Bombay Small Holders Relief Act, 1938 for another year. Clause 5 of the Bill provides for suitable amendment of section 9 of the Act which refers to tenants. The other provisions of the Act have no relation to the Bombay Tenancy Act and the question whether they should be continued in force or not depends on the decision relating to the bringing into force of the Bombay Agricultural Debtors Relief Act ,1939 . It does not appear, however, that the Bombay Agricultural Debtors Relief Act will be soon brought into force in the whole of the Province. It will, therefore, be necessary to continue in force these provisions . The Bill, therefore, provides for continuance of these provisions for one year more and clauses 3 and 4 provide for a suitable amendment of sections 3 and 4 of the Act.

4. Under executive instructions both the Bills require previous approval of the Governor General before enactment.

5. The first Bill to amend the Bombay Tenancy Act, 1939, does not require to be reserved for the consideration of the Governor General.

6. The subject matter of the second Bill to amend the Bombay Small Holders Relief Act, 1938, would fall under entry No. 21 in List II and entry No.4 in List III in the Seventh Schedule to the Government of India Act, 1935. As sections 3,4,6,7,9,and

A draft Bill to amend the Bombay Tenancy Act, 1939, is appended. Clause 2 empowers Government to extend any or all the provisions of the Act and to bring them into force in such area as it thinks fir. Section 4(2) provides that a person deemed to be a protected tenant shall be entitled to recover possession of the land if the land has been leased by the landlord for a period expiring after the 31st day of May 1940 from the date on which such lease expires and in other cases from the 1st day of June 1940. As these dates will now be incompatible with the Act as proposed to be amended, which will be enforced in difference districts at different times clause 3 of the Bill substitutes for "31st May 1940 and 1st June 1940" respectively "31st May and 1st June immediately following the date of the coming into force of that section in the area in which the land is situated. Similarly the date 31st March 1939 in section 5(2)(a) has been changed by clause 4 of the Bill to 31st March of the year immediately preceding the year in which that section comes into force in the area in which the land is situated. Clauses 5 & 6 of the Bill make suitable amendments in sections 19 & 23 by substituting "situated in any are in which that section comes into force, made after the coming into force of that section in such area" for the words " made after the coming into force of this Act ". Clause 7 provides for an amendment of section 29 to the effect that on the date on which the provisions of sections 2 to 13 come into force in any area section 9 of the Bombay Small Holders Relief Act, 1938 will be repealed in such area.

2. A draft Bill to amend the Bombay Small Holders Relief Act, 1938 is also appended. It provides for the extension of the Act for another year. Clause 5 makes a suitable amendment of section 9 which refers to tenants as it does not appear that the Bombay Agricultural Debtors Relief Act will soon be brought into force in the whole of the Province. It is necessary to continue in force the other provisions of the Act and clauses 3 and 4 provide for a suitable amendment of sections 3 and 4 of the Act. Clause 6 makes an amendment of section 11 to provide for revival of rights etc on the expiry of certain provisions of the Act instead of on/ the expiry of the whole of the Act as at present provided in that section.

3. As the Bills are important the Advocate General is requested kindly to scrutinise them and state whether they are in order.

Id/- ---

Remembrancer of Legal Affairs .

U.R. to Adv. General, dated 20-12-1940.

I have scrutinised the drafts o f the two Bills and I think that they are in order.

I have made an alteration in section 6 of the Bill to amend the Bombay Small Holders Relief Act, 1938,(at P 73) by substituting the word "such" instead of the word "the" in the last but one line of the section

Id/-

Advocate General

7. 1 .. 41.

Two revised drafts of the Bills are appended.

2. Paragraph 3 of the Revenue Department note at page 57 ante.- The amendment in sub-section (2) of section 1 is made from the drafting point of view. It is desirable that any provisions of the Act should extend only to the areas in which they are to be brought into force. Under the amended sub-section (2) and (3), notifications can be issued simultaneously providing for extension and bringing into force any provisions of the Act in any area.

3 Paragraph 5 of the Revenue Department note.- The necessary draft amendments to sections 4 and 5 of the Bombay Tenancy Act are appended. See new clauses 3 and 4. It appears necessary to amend sections 19 and 23 of the Act also as in the appended draft clauses 5 and 7b.

4. Paragraph 7 of the Revenue Department note.- The words "Second Amendment" were used in clause 1 of the Bill because the Act was being amended for the second time in the year 1940 in which this Bill was expected to be enacted. The words had no reference to the number of times the Act was amended since its enactment in 1938. As the Bill will now be enacted into an Act 1941 for the brackets, words and figures "(Second Amendment) Act, 1940" the brackets, words and figures " (Amendment) Act, 1941" have been substituted in clause 1 of revised draft Bill.

5. Paragraph 8 of the Revenue Department note.- As regards amendment of section 84 of the Bombay Agricultural Debtros Relief Act attention is requested to the Bill sent with the Remembtrancer of Legal Affair's U.O.R.NO. 11232, dated 23rd December 1940,. Clause 6 of the revised draft Bill to amend the Bombay Small Holders Relief Act, 1938 makes an amendment of section 11 providing for revival of rights etc. on the expiry of certain provisions of the Act instead of on the expiry of the whole of the Act as at present provided in

the section.

6. The draft Bill were shown to the Advocate General and have been approved by him.

Id/- S/S

Remembrancer of Lefal Affairs.

UR.to H.D. , No. 185 , dated the 8th January 1941.

DYR.

Acts.

Publication of the Bombay Tenancy (Amendment) Act, 1941.

GOVERNMENT OF BOMBAY
Legal Department
Resolution No. 2874

Bombay Castle, 29th March 1941.

Letter to the Secretary to the Governor No, 2421, dated the 18th March 1941.

Letter from the Secretary to theGovernor No.201(29), dated the 21st March 1941.

" With reference to your letter No.2421, dated the 18th March 1941, forwarding a copy of a Bill to amend the Bombay Tenancy Act, 1939, prepared by His Excellency the Governor under paragraph (2) of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, I am directed to say that under the provisions of the aforesaid paragraph, His excellency the Governor is pleased to declare that the assents to the Bill in the name of His Majesty.

2. The copy of the Bill is returned herewith with His Excellency the Governor's assent signified thereon."

RESOLUTION. -- The law should be published as Bombay Act No.VII of 1941, in the Bombay Government Gazette, dated the 29the March 1941.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Revenue Department with reference to the Memorandum from that Department dated the 15th March 1941.

By order of the Governor of Bombay,

Id/--

for { P.N. MODS,
Secretary to Government.

To

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 15 Gazette copies of the Act may forwarded to the Legal Department)

The Revenue Department. } With a cop of th Act.

* The Oriental Translator to Government. }

The Secretary to the Bombay Legislative Council. }

The Secretary to the Bombay Legislative Assembly. }

* With five extra copies.

DYR.

Legal Department.

The Bombay Agricultural Debtors Relief (Amendment) Bill and the Bombay Tenancy (Amendment) Bill have received the assent of the Governor on the 20th March 1941. The Bombay Small Holders Relief (Amendment) Bill has also received the assent of the Governor General on the 26th March 1941. The three Acts are being published in the Bombay Government Gazette dated the 29th March 1941.

2. Draft notifications under section 92(1) of the Government of India Act, 1935, for applying the Acts to the partially excluded areas in the Province are furnished herewith to the Revenue Department. They should be published by the Revenue Department in the Bombay Government Gazette dated the 31st March 1941 at the latest.

Id/- -
For Secretary to the Government of Bombay,
Legal Department.

U.R. to R.D.No.2876, dated the 29th March 1941.

DYR.

(19) Notification.

Revenue Department.

Bombay Castle, March 1941.

No. -In exercise of the powers conferred by sub-section(1) of section 92 of the Government of India Act, 1935, the Governor of Bombay is hereby pleased to direct that the Bombay Tenancy (Amendment) Act, 1941(Bom. VII of 1941) shall apply to the partially excluded areas in the Province of Bombay.

By order of the Governor of Bombay,

Secretary to Government.

29 85 67

Bom. Act No VII

~~GOVERNOR'S BILL No. VIII~~ OF 1941.

A Bill to amend the Bombay Tenancy Act, 1939.

Bom. XXIX of 1939.

WHEREAS it is expedient to amend the Bombay Tenancy Act, 1939, for the purposes hereinafter appearing;

26 Geo. 5 Ch. 2.

And whereas the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Tenancy (Amendment) Act, 1941.

(*2*) It shall come into force on 31st March 1941.

Amendment of section 1 of Bom. XXIX of 1939.

2. In section 1 of the Bombay Tenancy Act, 1939, hereinafter called "the said Act", for sub-sections (*2*) and (*3*) the following shall be substituted, namely :—

Bom. XXIX of 1939.

" (*2*) This section extends to the whole of the Province of Bombay except the City of Bombay. The Provincial Government may, by notification in the Official Gazette, extend all or any of the remaining provisions of this Act to such area other than the City of Bombay as may be specified in the notification.

(*3*) This section shall come into force at once. The Provincial Government may, by notification in the Official Gazette, direct that all or any of the remaining provisions of this Act shall come into force in any area to which the said provisions have been extended under sub-section (*2*) on such date as may be specified in the notification."